IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA.

APPEAL FROM ORDER NO. 76 OF 2001
WITH
APPEAL FROM ORDER NO. 87 OF 2001

APPEAL FROM ORDER NO. 76 OF 2001

1. Shri Anand Govind Shet
   Verenkar, major in age,
   businessman,

2. Mrs. Ashwini Anand Shet
   Verenkar, major in age,
   w/o Anand Shet Verenkar,
   housewife

   both resident of Flat No. 43,
   Antruz-Nagar, Ponda-Goa. .... Appellants

Versus

1. Smt. Shanti Vithal Pangam
   widow of Vithal Pangam,
   about 51 years old, resident of Siolim,
   Bardez-Goa, through her attorney
   Shri Ramesh P. Pangam, about 50 years
   old, business, r/o Siolim, H.No. E-7,
   Near St. Anthony Church, Bardez-Goa.

2. Shri Motiram Govind Shet Verenkar,
   major in age, married, business.

3. Shri Ajay Motiram Shet Verenkar,
   major in age, married, business.

4. Smt. Ankita Ajay Shet verenkar,
   major in age, wife of Ajay Shet

Verenkar, housewife.

5. Shri Vijay Motiram Shet Verenkar,
major in age, service.

All resident of Kurtarkar Nagar,
Shantinagar, Ponda-Goa.

6. Shri Bhiku Govind Shet Verenkar,
major in age, married, business,

7. Mrs. Lalita Bhiku Shet Verenkar,
w/o Bhiku G.S. Shet Verenkar, housewife,

both resident of MG-40
Antruz-Nagar, Ponda-Goa.

8. Smt. Motibai Gajanan Shet Verenkar,
widow of Gajanan Shet Verenkar,
housewife, r/o Kurterker Complex,
behind Canara Bank, Ponda-Goa.

9. Shri Prakash Gajanan Shet Verenkar,
major in age, married, service,

10.Mrs. Singha Prakash Shet Verenkar,
wife of Prakash Shet Verenkar, service

both resident of Housing Board Colony,
Opposite new bus Stand,
Ambegal Bandora, Ponda-Goa. .... Respondents

Shri R.G. Ramani, Advocate for Appellants.

Shri J.P. Mulgaonkar, Advocate for Respondent No.1.
Shri Sudin Usgaonkar, Advocate for Respondents No. 6 & 7.
Shri S.D. Padiyar, Advocate for Respondents No. 2 to 5 & 8 to 10.

APPEAL FROM ORDER NO. 87 OF 2001

1. Shri Motiram Govind Shet Verenkar,

2. Shri Ajay Motiram Shet Verenkar,

3. Smt. Ankita Ajay Shet Verenkar,
   major in age, wife of Ajay Shet Verenkar,
   housewife.

4. Shri Vijay Motiram Shet Verenkar,
   major in age, service.

   All residents of Kurtarkar Nagar,
   Shantinagar, Ponda-Goa.

5. Smt. Motibai Gajanan Shet Verenkar,
   widow of Gajanan Shet Verenkar,
   Housewife, r/o. Kurtarkar Complex,
   Behind Canara Bank, Ponda-Goa.

6. Shri Prakash Gajanan Shet Verenkar,
   major in age, married, service.

7. Mrs. Singha Prakash Shet Verenkar,
   wife of Prakash Shet Verenkar,
   service.

   Both residents og Housing Board Colony,
   Opposite new Bus Stand, Ambegal
   Bandora, Ponda-Goa.

Versus

1. Smt. Shanti Vithal Pangam
   widow of Vithal Pangam,
   about 51 years old, resident of Siolim,
   Bardez-Goa, through her attorney
   Shri Ramesh P. Pangam, about 50 years

old, business, r/o Siolim, H.No. E-7,
Near St. Anthony Church, Bardez-Goa.

2. Shri Bhiku Govind Shet Verenkar,
major in age, married, businessman.

3. Smt. Lalita Bhiku Shet Verenkar,
W/o. Bhiku G.S. Shet Verenkar,
housewife.

Both residents of M-G-40,
Antruz Nagar, Ponda, Goa.

4. Shri Anand Govind Shet Verenkar
major in age, business,

5. Smt. Ashvini Anand Shet Verenkar
major in age, W/o. Anand Shet Verenkar
housewife.

Both residents of Flat No. 43,
Antruz Nagar, Ponda, Goa.

Shri S.D. Padiyar, Advocate for Appellants.

Shri J.P. Mulgaonkar, Advocate for Respondent No.1.
Shri Sudin Usgaonkar, Advocate for Respondents No. 2 & 3.
Shri R.G. Ramani, Advocate for Respondents No. 4 & 5.

CORAM : **P.V. KAKADE, J.**

DATE : **7th November, 2006**

ORAL JUDGMENT:

Heard the learned Counsel for both the parties in both the

appeals. As pointed out, both the appeals arise out of one order, confirming the ex-parte injunction which was granted, pending the hearing of the application for injunction.

2. Now, in the course of the hearing of this matter, it is revealed that while admitting the appeal this Court has stayed the proceedings of the suit itself, as a result of which the suits are stayed and no progress is made due to the stay order. In that regard civil application no. 233 of 2001 (decided) shows that application was made for stay of all further proceedings in Special Civil Suit No. 50/98/A before the lower Court. While adjudicating the application, this Court issued order to the effect that ad interim relief in terms of prayer clause (b) is granted. It was further directed that pending the hearing and final disposal of the appeal all further proceedings under the Special Civil Suit be stayed subject to the condition that the party shall not create third party interest in the property. On perusal of this order, it is prima facie apparent that the learned Judge in fact intended to stay the order of the injunction subject to the condition that the party shall not create third party interest in the property, pending the appeal. However, instead of that the entire suit came to be stayed which in my view, would hinder the process of justice and unnecessary delay would

be caused in the proceedings.

3. Both these appeals are of the year 2001 and, therefore, no fruitful purpose would be served at this stage to go into the merits. Instead, it is hereby directed that the learned trial Judge shall proceed with the suit expeditiously so as to complete the adjudication of the suit within one year from the date of receipt of the writ of this Court, after giving opportunity to both the sides to participate in the proceedings from the stage it was stayed. In the meantime, pending the suit, the party shall maintain status quo as on today with regard to the suit property. Needless to mention that the order passed by this Court to stay the proceedings of the suit is recalled, keeping the condition intact to the effect that parties shall not create third party interest in the property pending the suit. The order of the lower Court stands modified to that effect.

4. With this direction, both the appeals are disposed of with no order as to costs.

P.V. KAKADE, J.

NH